

**Freetown Zoning Board of Appeals**

Wednesday, April 20, 2016  
Town Hall – Assonet Mass.

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FREETOWN TOWN CLERK  
2016 JUL 26 PM 12:02 JAB

**Present:** James Frates, Walter Sawicki, and Nicolas Velozo (associate).

**Absent:** Robert Jose.

**Call to order:** James Frates called the meeting to order at 6:30 p.m.

**Minutes of Previous Meeting**

The minutes of December 16, 2015, were received.

**Case #563 – Allen & Melanie Russell – 50 Huron Avenue, East Freetown**

A motion was made by Mr. Velozo, seconded by Mr. Sawicki, to open the public hearing at 6:30 p.m. and to waive the reading of the public hearing notice. The motion carried unanimously.

Mrs. Russell explained the proposal, which is to construct a detached garage with a fourteen-foot ceiling height. She stated her husband would use the garage to work on his personal vehicle, a 1985 Chevrolet K-10 pickup truck, and they would also stack cars in the garage. Mr. Velozo asked if the garage would be used for any commercial work or purposes, and Mrs. Russell stated it would not. Mr. Sawicki asked if this property is at the dead-end end of Huron Avenue, and Mrs. Russell stated that it is.

Mr. Frates asked why the petitioners had come to the ZBA. Mrs. Russell stated the Building Inspector would not give them a permit for a fourteen-foot-high ceiling; he would permit eight feet, but nothing higher than eight feet. Mr. Velozo asked if the existing house had eight-foot walls, and Mr. Russell stated he believed they are eight feet high.

Mr. Frates asked if any abutters were present and wished to be heard.

Tom Kennedy, 48 Huron Avenue, stated he is the closest abutter to the proposed garage, and that he is in favor of the petition being granted.

William Stone, 49 Huron Avenue, read a prepared statement in which he felt the Building Inspector was correct in denying the permit for the garage as proposed. He felt that their proposed garage was not in keeping with the neighborhood or with the spirit of an accessory structure being subordinate to a primary structure. His statement also included general comments about the Russells and the way in which they keep their property.

Robert Johnson, 51 Huron Avenue, stated his belief that Mr. Stone is against the project because Mr. Stone and Mr. Russell do not get along well as neighbors. He, Mr. Johnson, is in favor of the proposal and does not feel the garage would be a detriment to the neighborhood.

Bill Furness, 2 Hemlock Point, questioned why all the discussion was centering on the height of the ceiling when the letter notifying abutters of the hearing mentioned the square footage of the garage. The clerk responded that the square footage was properly part of the notice because it was included in the denial letter, but the denial is based only on the height of the ceiling and therefore is the only matter being considered. Mr. Furness disagreed with this interpretation. The board members concurred that only the height is being considered; they stated that the same square footage with an eight-foot ceiling would have been permitted according to the letter. The clerk reiterated that the square footage was included in the notice only because it was included in the denial.

Diane Ritchie, 2B Huron Avenue, expressed concerns that the garage would not fit in with the neighborhood, especially at its proposed height. She felt it would look out of place. Mr. Sawicki asked Mr. & Mrs. Russell what materials the garage would be constructed of, and Mr. Russell responded wood and vinyl. Mr. Velozo asked if it would match the house in appearance, and Mrs. Russell stated that was their intent.

Mr. Velozo stated he felt inclined to agree with the Building Inspector, that fourteen feet is too high for the ceiling, but he felt the denial letter was too vague. The letter notes an eight-foot height would be acceptable, but does not address nine feet, ten feet, or why eight feet was chosen. Mr. Frates asked why fourteen feet was chosen, and Mrs. Russell stated it was for the vehicle lifts. Mr. Velozo asked if scissor trusses had been considered, and Mr. Russell stated no as they were looking to use the truss area for storage of lawn furniture, etc.

General discussion was held on whether to have the Building Inspector come to the next meeting. Mr. Velozo suggested approval with conditions, but it was determined that this was an administrative appeal and could only be a ye or nay vote, unlike a variance.

A motion was made by Mr. Velozo, seconded by Mr. Sawicki, to continue the hearing to Wednesday, May 25th at 6:30 p.m. The motion carried unanimously.

#### **Case #564 – Wayne Miller – 36 Flagg Swamp Road, East Freetown**

A motion was made by Mr. Velozo, seconded by Mr. Sawicki, to open the public hearing at 7:00 p.m. and to waive the reading of the public hearing notice. The motion carried unanimously.

Mr. Miller and his father were present to discuss the proposal, which was to construct an addition on the south (Crapo Lane) side of the home that would match the garage on the north side of the home in size and appearance, essentially making the home symmetrical from Flagg Swamp Road. He stated an existing closet in the living room of the existing home would be used to connect the apartment space with the primary dwelling space. Mr. Frates asked who would be occupying the apartment. Mr. Miller stated his parents and sister would be living there.

Mr. Velozo questioned the square footage of the apartment. Mr. Miller believed the square footage to be 1,000 square feet. Mr. Sawicki calculated in excess of 1,200 square feet. Mr. Miller stated he was seeking a variance for the extra square footage. Mr. Sawicki stated there was no variance application. Mr. Miller stated the Building Inspector told him the variance would be part of the special permit application. The board members explained that that could not be done; a variance requires a separate hearing, separate notifications, etc. There is no ability to grant a variance as part of the special permit process. Mr. Miller was advised to revise his plans and discuss them with the Building Inspector.

Rick Labossiere, 46 Flagg Swamp Road, asked general questions regarding the special permit process.

A motion was made by Mr. Velozo, seconded by Mr. Sawicki, to continue the hearing to Wednesday, May 25th at 6:35 p.m. The motion carried unanimously.

#### **Meeting Adjourned**

A motion was made by Mr. Sawicki, seconded by Mr. Velozo, to adjourn at 7:19 p.m. The motion carried unanimously.

This is a True Record by me.

Attest: \_\_\_\_\_  
Michael T. McCue, Senior Clerk